IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
WRIT PETITION NO. 1893 (SS) OF 2005

Harish Chandra Joshi,
S/o Sri Jai Kishan Joshi,
R/o Village Chatina Post Malata,
Tehsil and District – Bageshwar. .....Petitioner.

Versus

1. State of Uttaranchal, through Secretary Revenue Secretariat, Dehradun, District Dehradun.
2. District Magistrate, District-Bageshwar.
3. Sub District Magistrate, Bageshwar, District Bageshwar.

.....Respondents.

19.12.2005

Hon'ble Rajesh Tandon, J.

Heard Sri Nandan Arya, learned counsel for the petitioner and learned Standing Counsel for the State. Both the counsels have agreed that the writ petition may be disposed of at the admission stage.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondents to give the petitioner minimum of the pay-scale admissible to regular employee of the post on which the petitioner is working since the date of his appointment. Further prayer has been made for a writ of mandamus commanding the respondents to regularize the services of the petitioner against the sanctioned posts which are vacant and further has prayed to pay the salary in accordance with the regularized candidates.

Briefly stated, the petitioner was appointed on 19th July, 1997 on the post of Class-IV as daily wager against the clear vacancy of peon and the work and posts are available according to the petitioner but the petitioner has not been allowed to continue on the post on regular basis. Thereafter, further on 3rd April, 2001 according to the case of the petitioner the then District Magistrate passed an order giving the appointment to

the petitioner on contract basis on fixed pay for 89 days till the regular appointment on the vacant post is made. On 25.10.1999, by the order of the District Magistrate and the petitioner was given work of Chawkidar against the leave vacancy of the office of District Magistrate, Bageshwar.

A recommendation was sent by the Deputy Collector Kapkot to the District Magistrate Bageshwar that there was shortage of peon and two patwari circle demanded the peon for a long period and also recommended the name of the petitioner for appointment as peon on 15.02.2001.

On 03.04.2001, the then District Magistrate passed an order giving appointment to the petitioners on contract basis along with a fixed pay of Rs. 2550/- per month for a period of 89 days or till the regular appointment against the vacant post is made.

On 21st August, 2001 again an order was passed by the then District Magistrate Bageshwar and appointed the petitioner on contract basis in a fixed pay for a period of 89 days or till the regular appointment is made.

According to the petitioner , he was not given his salary for a period of six months. The petitioner approached the respondent and prayed to release the salary, but the respondent did not give any response.

On 26th August, 2003, the petitioner made a representation to the District Magistrate Bageshwar for payment of the salary with regard to the contract basis on which he has worked and further for regularization but the orders have not yet been passed. Petitioner has submitted that he is still working on contract basis.

Learned standing counsel has submitted that the representation filed by the petitioner on 26th August, 2003 shall be disposed of suitably and if the posts are vacant, the

representation shall be decided in accordance with the rules applicable to the department.

If the petitioner has already worked on the said post either on regular, contract basis or on daily rated basis, the respondent shall suitably consider the same for regular appointment on the posts, which are vacant within a period of three months from the filing of the certified copy of the order.

Subject to the aforesaid observations, the writ petition is disposed of at the admission stage. No order as to costs.

(Rajesh Tandon, J.)

19.12.2005
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